

**From:** Daryl L. Biberdorf  
**To:** Microsoft ATR  
**Date:** 1/27/02 11:37pm  
**Subject:** Microsoft Settlement

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Re: opposition to proposed Department of Justice settlement with Microsoft

I am writing today to oppose the proposed Department of Justice settlement with Microsoft. I have been a professional programmer and database administrator for approximately twelve years. I am the lead author of the book PowerBuilder 5 How-To, published in 1996 by the Waite Group Press (ISBN 1571690557). I have two primary problems with the settlement.

The first problem is that the requirement to publish Microsoft APIs (III.D in the proposed settlement) could be interpreted to mean that the interfaces may be made available solely to commercial entities. The list of recipients of the published APIs includes ISVs, IHVs, IAPs, ICPs, and OEMs. None of the definitions of these terms refers specifically to individuals. As a programmer (possibly as a hobbyist with a new idea working in my spare time), I do not believe any of these terms requires Microsoft to publish their APIs to me as a specific individual. Microsoft should be compelled to publish their APIs, period. I should not be required to declare myself an "entity" (which usually implies a business entity such as a partnership or corporation) in order to study Microsoft's APIs.

The second problem is more serious. The proposed settlement requires Microsoft to publish details of their communication protocols (III.E). However, this requirement is completely negated in III.J.1, which explicitly ALLOWS Microsoft to refuse to publish APIs involving encryption in numerous forms (anti-piracy, network security, operating system security, etc.)

There are scant few communication protocols in this wired age that do NOT require security or encryption or both. Basic protocols like SMTP (the Simple Mail Transfer Protocol, used for transferring Internet email) can require senders to provide a username and password or to have an identifiable domain name. Can Microsoft avoid publishing their email protocols (or extensions to standard protocols like SMTP) simply by claiming "security"? The next generation network protocol in use on the Internet, IPv6, offers encryption as a CORE component.

That is, you cannot use IPv6 without encrypting the connection. Microsoft can use III.J.1 to restrict publication of a CORE network API under the claim of "security".

Additionally, Microsoft has modified existing STANDARD protocols in such a way as to prevent interoperability with other products. Perhaps the best example is Kerberos, a system of authenticating users securely. Originally developed at the Massachusetts Institute of Technology, it has become a standard technology in security-conscious implementations. All UNIX vendors, Linux, and several database vendors offer Kerberos implementations that easily integrate and work together. Microsoft's implementation of Kerberos in Windows 2000 was an "extension" of Kerberos that did NOT interoperate at all. Can Microsoft prevent the integration of their product with other products in use at a site simply by claiming "security"?

Microsoft has repeatedly altered the Windows file- and print-server protocol, SMB, in order to foil the freely available Samba implementation. SMB networking authenticates users, thus involving "security". Samba is offered by a group of individuals working together across the globe. They are not an easily-recognizable "entity". Thus, the two problems I have discussed come together and make it impossible for the Samba team to deliver a product enabling non-Microsoft systems to interoperate with Microsoft products. This product is popular and effective. No wonder, since it is significantly cheaper to implement than Microsoft's solution. Does anyone doubt that, based on their previous history of monopolistic practices, Microsoft would seek to withhold details of Windows networking APIs on these grounds?

To recap, I oppose this settlement because it fails to protect individuals' ability to learn and study Microsoft's APIs and because Microsoft will almost certainly refuse to publish APIs that involve "security" in the broadest sense possible. This settlement should be re-worked to remedy these problems.

Finally, I agree with the points made by Dan Kegel, whose comments can be viewed at <http://www.kegel.com/remedy/letter.html>. I add my support to his words.

Sincerely,

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